

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON JUDICIARY**

**Call to Order:** By **CHAIRMAN JIM SHOCKLEY**, on February 9, 2001 at 7:00 A.M., in Room 137 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Jim Shockley, Chairman (R)  
Rep. Paul Clark, Vice Chairman (D)  
Rep. Jeff Laszloffy, Vice Chairman (R)  
Rep. Darrel Adams (R)  
Rep. Gilda Clancy (R)  
Rep. Aubyn A. Curtiss (R)  
Rep. Bill Eggers (D)  
Rep. Steven Gallus (D)  
Rep. Gail Gutsche (D)  
Rep. Christopher Harris (D)  
Rep. Linda Holden (R)  
Rep. Joan Hurdle (D)  
Rep. Jeff Mangan (D)  
Rep. Brad Newman (D)  
Rep. Mark Noennig (R)  
Rep. Ken Peterson (R)  
Rep. Diane Rice (R)  
Rep. Bill Thomas (R)  
Rep. Merlin Wolery (R)  
Rep. Cindy Younkin (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** John MacMaster, Legislative Branch  
Mary Lou Schmitz, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: **HB 475 - 2-05-01**  
**HB 405 - 2-06-01**  
**HB 313 - 1-22-01**

HB 360 - 1-25-01

Executive Action: HB 405 - DPAA  
HB 390 - DPAA  
HB 434 - DPAA  
HB 219 - DPAA

EXECUTIVE ACTION ON HB 434

Motion: REP. ADAMS moved that HB 434 DO PASS. #1

Discussion: Rep. Noennig.

Motion: REP. NOENNIG moved a conceptual motion that HB 434 BE AMENDED. #2

Discussion: Reps. Noennig, Thomas, Mr. MacMaster, Peterson.

Vote: The Noennig amendment Motion #2 carried unanimously 20-0

Discussion: Reps. Eggers, Thomas, Noennig.

Motion/Vote: REP. LASZLOFFY moved that HB 434 BE AMENDED, CONCEPTUALLY, To remove the word "CHURCH". #3 Motion carried unanimously 20-0.

Discussion: Reps. Laszloffy, Eggers, Mangan, Noennig, Clancy, Newman, Thomas, Clark.

Motion: REP. LASZLOFFY moved that HB 434 BE AMENDED to strike the words "Licensed Day-care Centers". #4 Withdrawn

Motion/Vote: REP. LASZLOFFY moved that HB 434 DO PASS AS AMENDED. #5 Motion carried 15-3 with Reps. Shockley, Gallus and Younkin voting no.

EXECUTIVE ACTION ON HB 471

Motion: REP. PETERSON moved that HB 471 DO PASS. #6

Motion/Vote: REP. PETERSON moved that HB 471 BE AMENDED. #7 Motion carried unanimously 18-0.

Motion: REP. PETERSON moved that HB 471 DO PASS AS AMENDED. #8

Discussion: Reps. Clancy, Peterson, Mangan, Curtiss, Gallus, Adams, Rice.

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Motion/Vote: REP. PETERSON moved a substitute motion that HB 471 BE POSTPONED. #9. Motion carried 12-7 with Reps. Laszloffy, Clancy, Gallus, Newman, Noennig, Rice and Wolery voting no.

EXECUTIVE ACTION ON HB 390

Motion: REP. ADAMS moved that HB 390 DO PASS. #10

Motion: REP. NEWMAN moved that HB 390 BE AMENDED to strike lines 18 and 19 from the Bill. #11 Motion withdrawn.

Discussion: Reps. Noennig, Newman, Shockley.

Motion/Vote: REP. SHOCKLEY moved that HB 390 BE AMENDED, conceptually that paragraph 4, sub 4, to not only relate to the defendant but to the plaintiff. #12 Motion carried unanimously 20-0.

Discussion: Reps. Curtiss, Noennig, Shockley, Gallus, Eggers, Newman.

Motion/Vote: REP. SHOCKLEY moved that HB 390 DO PASS AS AMENDED. #13. Motion carried 17-2 with Reps. Gallus and Gutsche voting no.

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HEARING ON HB 313

Sponsor: Rep. Gay Ann Masolo, HD 40, Townsend, said this Bill relates to domestic violence and revising laws for intervention counseling referrals for persons convicted of an assault on a partner or family member. Treatment will include any indicated chemical dependency treatment and will provide reports to the sentencing court and probation officer.

Proponents: Judith Wang, Assistant City Attorney, Office of the City Attorney, Missoula, EXHIBIT(juh33a01).

John Buttram, Licensed Professional Counselor,  
Kelispell.

Stacey Umhey, Supporters for an Abuse Free  
Environment, Stevensville.

Penni Raymond, Missoula EXHIBIT(juh33a02).

Alison Paul, Managing Attorney, Domestic Violence  
Unit of Montana Legal Services.

Cindy Weese, Director, Montana Coalition Against  
Domestic and Sexual Violence.

Pam Bucy, Assistant Attorney General

Tootie Welker, Program Director, Domestic Violence  
Program, Sanders County. EXHIBIT(juh33a03) EXHIBIT(juh33a04)  
EXHIBIT(juh33a05)  
EXHIBIT(juh33a06) EXHIBIT(juh33a07)

Matthew Dale, Executive Director, Friendship Center,  
Helena.

Mikie Baker-Hijek, Great Falls

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Opponents: Betty Ann Roan, Deputy Administrator, Alternatives,  
Inc., Billings EXHIBIT(juh33a08) EXHIBIT(juh33a09)

Dr. Deb Sanchez, Clinical Psychologist, Helena  
EXHIBIT(juh33a10)

Colleen Murphy, Executive Director, Montana Chapter  
National Association of Social Workers. EXHIBIT(juh33a11)

Mary McCue, Montana Clinical Mental Health  
Counselors' Association. EXHIBIT(juh33a12)

Robert Throssell, Montana Magistrates' Association.

Mike Thatcher, Executive Director, Community  
Counseling Services, Inc. Butte.

Informational Witness: Diana Leibinger-Koch, Staff Attorney,  
Department of Corrections.

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Questions from Committee Members and Responses: Reps. Newman, Gutsche, Rice, Hurdle, Clark, Noennig, Peterson to Ms. Wang, Ms. Welker, Ms. Roan for clarification and to answer their concerns.

Closing by Sponsor: Rep. Masolo closed the Hearing on HB 313 by saying her main goal is to help end violence and hopes this Bill, in some way, can do that. She understands the concerns of some people because of the rural and remote areas that are in Montana.

**EXHIBIT**(juh33a13) **EXHIBIT**(juh33a14) mailed and given to Secretary after the Hearing.

HEARING ON HB 475

Sponsor: Rep. Bob Davies, HD 27, Bozeman said this Bill will try to reduce the number of frivolous suits that are filed. This is a problem and the question is how do you address it? This is an effort to cause the loser in a lawsuit to pay the cost.

Proponents: None

Opponents: Stan Koleczyc, Attorney, Montana Municipal Insurance Authority.

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John Sullivan, Attorney, Montana Defense Trial Lawyers, Helena.

Al Smith, Montana Trial Lawyers' Association, Helena

Greg Van Horssen, State Fire Insurance Co., Helena

Questions from Committee Members and Responses: None

Closing by Sponsor: Rep. Davies closed the Hearing on HB 475.

HEARING ON HB 360

Sponsor: Rep. Paul Clark, HD 72, Trout Creek said this Bill is to accurately name and define sexual violence against children for what it really is, a violent crime against children. This Bill is a change in the definition Section of the Code 46-18-104 as

applied to Section 45-05-502, Sexual Assault Against a Child, Section 45-05-503a, Sexual Intercourse Without Consent with a Child. He passed out an amendment at this time **EXHIBIT(juh33a15)**

**Proponents:** Tootie Welker, Director, Sanders County Coalition for Families **EXHIBIT(juh33a16)** **EXHIBIT(juh33a17)** **EXHIBIT(juh33a18)** **EXHIBIT(juh33a19)** **EXHIBIT(juh33a20)**

Tonda Moon, Plains

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Mary Moon, Plains, Victim

Swift Moon, Plains

Mark Murphy, Assistant Attorney General.

**Opponents:** None

**Questions from Committee Members and Responses:** Reps. Younkin, Noennig, to Mr. Murphy.

**Closing by Sponsor:** Rep. Clark closed the Hearing on HB 360 by saying it was an honor to represent his constituents who appeared as witnesses today. This Bill states that whenever that crime is committed against children, it assumes there are threats, intimidation and force. **EXHIBIT(juh33a21)**

#### HEARING ON HB 405

**Sponsor:** Rep. Cindy Younkin, HD 28, Bozeman said she had a Bill last session which had to do with funding the Victim Witness Advocacy Program. This Bill adjusts that and addresses a couple other portions of law which were not addressed last session. Sections 1 and 4 in this Bill basically clarified the distribution of the Victim Advocate Surcharge and Section 4 increases that surcharge somewhat. Sections 2 and 3 of the Bill are actually life savers. This Bill would require the jailers, on behalf of the county, to make reasonable attempts to try to notify the victims that their offenders are being released from jail. She cited a personal tragedy of a friend who was murdered by the friend's husband.

**Proponents:** Marty Lambert, Gallatin County Attorney

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Gloria Edwards, Gallatin County Victim Assistance,  
Bozeman. **EXHIBIT**(juh33a22) **EXHIBIT**(juh33a23) **EXHIBIT**(juh33a24)  
**EXHIBIT**(juh33a25)

Valorie Wilson, County Attorney, Jefferson County

Cecelia Kimball, Victim, Billings

Ed Krasinski, Victim Witness Advocate, Jefferson  
County.

Pam Bucy, Assistant Attorney General.

Dennis Paxinos, Yellowstone County Attorney

Mona Jamison, Gallatin County, Bozeman

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Tootie Welker, Domestic Violence Program  
**EXHIBIT**(juh33a26)

Opponents: None

Questions from Committee Members and Responses: Rep. Newman to  
Mr. Lambert.

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Closing by Sponsor: Rep. Younkin closed the Hearing on HB 405 by  
saying the victim and witness program is not just for victims of  
domestic violence. It's for any kind of victim of any kind of  
crime.

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**EXHIBIT**(juh33a27) given to Secretary after the meeting.

EXECUTIVE ACTION ON HB 219

Motion: REP. ADAMS moved that HB 219 DO PASS. #14

Motion: REP. SHOCKLEY moved that HB 219 BE AMENDED. #15  
**EXHIBIT**(juh33a28)

Discussion: Rep. Shockley explained the amendment. Rep. Noennig asked for further clarification.

Motion: REP. RICE moved that HB 219 BE AMENDED, conceptually to include theft on private property. #16

Motion: REP. YOUNKIN moved a substitute motion that HB 219 BE AMENDED. #17

Discussion: Reps. Shockley, Thomas, Adams, Noennig.

Vote: Motion #17 carried 18-1 with Rep. Gutsche voting no.

Discussion: Reps. Gutsche, Shockley, Laszloffy, Newman.

Motion/Vote: REP. YOUNKIN moved that HB 219 DO PASS AS AMENDED. #18 Motion carried 17-2 with Reps. Gutsche and Mangan voting no.

EXECUTIVE ACTION ON HB 405

Motion: REP. YOUNKIN moved that HB 405 DO PASS. #19

Motion/Vote: REP. YOUNKIN moved that HB 405 BE AMENDED. #20 Motion carried unanimously 19-0.

Motion/Vote: REP. YOUNKIN moved that HB 405 DO PASS AS AMENDED. #21. Motion carried unanimously 19-0.

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**ADJOURNMENT**

Adjournment: 12:00 P.M.

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REP. JIM SHOCKLEY, Chairman

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MARY LOU SCHMITZ, Secretary

JS/MS

**EXHIBIT** (juh33aad)